

**Proposed Agenda -- Issues for EPA Meeting with WaterLegacy  
May 31, 2013, 1:00 pm at Region 5 Offices 77 W Jackson Blvd, Chicago, IL 60604**

1) EPA role as “cooperating” agency.

- PSDEIS implies (Introduction 1-1) that it is a joint document with cooperating agencies. Some people have said SDEIS would not be released unless EPA agreed with analysis.
- Could you explain EPA role as cooperating agency and comment on this statement?

2) Water

- How would EPA address issues of unintended discharge to surface and groundwater through seeps, leaks or fractures from waste rock, tailings basin, mine pits?
- How does EPA intend to address existing exceedances at LTVSMC tailings basin?
- Where EPA has concerns about modeling, assumptions and/or flaws in data, how would EPA address conclusions based on possibly invalid methods and inputs?
- The PSDEIS does not describe the potential effects of hypothetical failure scenarios, whether due to extreme weather or modeling issues. Has EPA considered this?
- What does the EPA consider its role to be in CWA certification given impacts on tribes?

3) Wetlands/Aquatic Resources

- What information and process will be used by EPA to determine if affected resources are aquatic resources of national or international importance?

The 404(q) Dispute Resolution fact sheet discusses the factors considered when calling something an ARNI: “Factors used in identifying ARNIs include: economic importance of the aquatic resource, rarity or uniqueness, and/ or importance of the aquatic resource to the protection, maintenance, or enhancement of the quality of the Nation’s waters.”

(Fact sheet: <http://water.epa.gov/type/wetlands/outreach/upload/404q.pdf>)

- Has that determination been made?

No. The determination whether a project may result in substantial and unacceptable impacts to an ARNI would be made during the CWA Section 404 Individual Permit Public Notice Review Process.

- Would this analysis include streams, floodplains, watershed impacts?  
Yes. The CWA Section 404 review includes impacts to wetlands, streams and rivers.
- Does the EPA distinguish between direct and indirect impacts on aquatic resources in its Section 404 review?  
Yes. EPA will review the specific impacts to aquatic resource functions. These would likely include filling, fragmentation, and changes in hydrology and vegetation.
- Does the EPA consider functionality within watersheds in its review?  
Yes. EPA includes aquatic resource functionality within watersheds in our CWA Section 404(b)(1) review.

4) Air

- We were unable to find “potential to emit” numbers for criteria pollutants, HAP’s or greenhouse gases. Does the EPA have that data? How was the “minor source” determination made?

5) Environmental Justice

- What are expectations of EPA regarding analysis of environmental justice issues?

6) Cumulative Impacts

- How does the EPA intend to address issues where SDEIS information may be incomplete, such as data on wetland impacts or wildlife corridors?

7) Underground Mining

- Has there been further EPA comments since the letter of May 2013 on underground mining alternative?
- What discussion has there been about future underground mining on the site?

8) Release of PSDEIS

- As a result of PolyMet media regarding PSDEIS, MDNR has released the PSDEIS to the public. How will EPA address PSDEIS prior to release of SDEIS?